

Minneapolis City Planning Department Report

Waiver From Moratorium Application (BZZ 1041)

Date: February 18, 2003

Applicant: Abraham Awaijane d.b.a. Penn Gas Stop

End of 60 Day Decision Period: N.A. , requires major site plan review, licensing

Address Of Property: 2600-06 Penn Ave. No.

Contact Person And Phone: Abraham Awaijane 651-501-8499 or 612-309-8378

Planning Staff And Phone: Merland Otto 612-673-2576

Ward: 3 **Neighborhood Organization:** Jordan Area Community Council

Existing Zoning: C1

Proposed Use: Automobile convenience facility

Reason For Waiver: The site is located in the area of a moratorium on the establishment or re-establishment of automobile convenience facilities in the C1 and C2 districts between Penn and Lyndale Avenues and 26th and 44th Avenues North. Mr. Abraham Awaijane, property owner of 2600-2606 Penn Ave. No, is seeking a waiver from the moratorium in order to re-establish an automobile convenience store in a C-1 district.

Appropriate Section(s) of the Zoning Code: Waiver from Title 21 Chapter 594, Interim ordinance on establishment, re-establishment, or expansion of grocery stores and automobile convenience facilities in C1 and C2 Districts, Chapter 529.50 Waiver of Restriction, Chapter 531 Nonconforming Uses and Structures, Chapter 538 Commercial Districts.

Background: Currently there is a moratorium on the establishment, re-establishment, or expansion of any grocery store or automobile convenience facility in the C1 and C2 Districts in an area between Penn and Lyndale Avenues North and 26th and 44th Avenues North.

The moratorium was enacted to conduct a study to consider amendments to the comprehensive plan, zoning code, or other regulatory controls to address the issues relating to grocery stores and automobile convenience facilities. The City Council is concerned about the effects of conversion of properties to grocery stores and convenience stores in the C1 and C2 districts in the Jordan area and the potential negative impacts that they may generate on surrounding residential properties.

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Mr. Awaijane purchased the gas station/convenience business in 1994 and later purchased the property on a contract for deed. He operated the store on his own for a couple of years and then leased the store to two separate operators. The second operator had a number of violations apparently of both City and MPCA regulations. Licenses to operate were revoked and the store operations were discontinued in March 2002. Since that time, Mr Awaijane has made a number of security improvements to the property.

On October 15, 2002 a waiver from the moratorium was granted by Zoning and Planning to Taher Ibrahim doing business as Gas N' Snack, who had made a similar application for this site.

The existing building is 2448 SF (external dimensions). It is a legal nonconforming gas station in the C1 District. Additional licensing criteria are applicable under Chapter 287.

Neighborhood Review: Abraham Awaijane, the property owner, met with the Jordan Area Community Council on February 11, 2003 to present the project. The Jordan Community Council was contacted, but as of this date, has not indicated either support or opposition to the request.

Findings: Section 529.50 of the Minneapolis Code states that, "a waiver may be granted where the City Council finds substantial hardship caused by the restrictions and finds that the waiver will not unduly affect the integrity of the planning process or the purpose for which the interim ordinance is enacted."

The property has been used as an automobile convenience facility for at least 15 years. Its use in the C1 district was established prior to adoption of the new zoning code. It, thus, is allowed as a nonconforming use in the C1 district.

Mr. Awaijane purchased the property on a contract for deed and subsequently leased the operation out to another tenant who ultimately experienced license revocation and ceased operations in March 2002. The owner indicates he has since made a number of security improvements to the property including installation of security cameras, lighting and fencing. In addition, the owner states that he has made improvements to the property to bring it into compliance with regulatory provisions. He has continued to finance the purchase of this property through other revenue sources since the discontinuation of business at this location. The owner considers this a hardship.

A waiver is required in order for the business to apply for site plan review and to obtain the required licenses for operation of the business. Additional conditions may be imposed through both processes.

A waiver was approved for this property on October 15, 2002 for a similar request by a different applicant.

The waiver does not affect the integrity of the planning process or the purposes for which the interim ordinance is enacted.

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Recommendation of the City Planning Department:

The City Planning Department recommends that the City Council adopt the above findings and **approve** the application for a waiver enabling the applicant to proceed with regulatory and licensing approvals as necessary for the property at 2600-2606 Penn Ave. No.